

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

JAMIE MILLER

Plaintiff,

v.

**STANDARD FUSEE CORPORATION
d/b/a ORION SAFETY PRODUCTS**

Defendant.

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**CIVIL ACTION NO. 4:13-cv-1687
JURY**

DEFENDANT’S NOTICE OF REMOVAL

TO THE HONORABLE COURT:

1. COMES NOW, Defendant, STANDARD FUSEE CORPORATION d/b/a ORION SAFETY PRODUCTS (“Orion”) and pursuant to 28 U.S.C. §§ 1332, 1441(a) and 1446 files this Notice of Removal from the District Court of Harris County, Texas to the United States District Court for the Southern District of Texas, Houston Division. In support of this Notice of Removal, Orion respectfully shows the following:

I. CASE BACKGROUND AND BASIS FOR REMOVAL

2. On April 9, 2013, Plaintiff, Jamie Miller commenced an action in the 55th Judicial District Court of Harris County, Texas, Cause No. 2013-21089, against Orion. Miller’s Petition asserts that Orion manufactured an allegedly defective product that cause him bodily injury. Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings, and orders served upon Orion in the state court action are attached as Exhibits “A” and “B.” In his Petition, Miller asserts that the damages for which he seeks recovery exceed \$100,000.00.

3. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1332. Further, this

matter is one that may be removed to this Court pursuant to 28 U.S.C. § 1441 because it is a civil action that is between citizens of different states and in which the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

4. Venue is proper in this Court because the State Court action is pending in Harris County, Texas, which is part of the Southern District of Texas. *See* 28 U.S.C. § 1441(a).

II. COMPLETE DIVERSITY OF CITIZENSHIP

5. There is complete diversity of citizenship between the parties. Plaintiff, Jamie Miller is a resident of Harris County, Texas. *See* Plaintiff's Original Petition, ¶ 3. Defendant, Orion is a foreign corporation with a principal place of business in Easton, Maryland. *See* Plaintiff's Original Petition, ¶ 4.

III. AMOUNT IN CONTROVERSY EXCEEDS \$75,000.00

6. From the face of the Petition, the Plaintiff specifically claims that he is seeking recovery of damages that exceed \$100,000.00. *See* Plaintiff's Original Petition, ¶ 1. It is apparent that the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

7. The amount in controversy requirement can be satisfied by showing that it is facially apparent from the Petition that the claims more likely than not exceed \$75,000.00. *See Allen v. R&H Oil and Gas Co.*, 63 F.3d 1326, 1335 (5th Cir.1995); *accord, Singer v. State Farm Mutual Automobile, Ins. Co.*, 116 F.3d 373, 377 (9th Cir. 1997).

8. Orion denies the allegations in the Petition, yet taking the allegations on their face, it is clear that Plaintiff's claims involve an amount in controversy in excess of \$75,000.00.

9. Given the complete diversity of the parties and an amount in controversy in excess of \$75,000.00, this Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1332, and this action

is properly removable pursuant to 28 U.S.C. § 1441.

IV. OTHER MATTERS

10. Pursuant to Local Rule 81, Orion provides the following:

a. All executed process in the case;

Required documents are attached as Exhibit “A.”

b. Pleadings asserting causes of action, e.g., petitions, counterclaims, cross actions, third-party actions, interventions and all answers to such pleadings;

Required documents are attached as Exhibit “B.”

c. All orders signed by the state judge;

Orion is not aware of any Orders signed by the State Judge.

d. The docket sheet;

Required documents are attached as Exhibit “C.”

e. An index of matters being filed;

Required documents are attached as Exhibit “D.”

f. A list of all counsel of record, including addresses, telephone numbers and parties represented.

Counsel of Record for Plaintiff, Jamie Miller

Jason A. Gibson (TBA No. 24000606)
Clifford D. Peel II (TBA No. 24068776)
Andrew C. Smith (TBA No. 240638596)
The Gibson Law Firm
The Lyric Centre
440 Louisiana, Suite 2050
Houston, Texas 77002
Phone: (713) 650-1010
Fax: (713) 650-1011

Counsel of Record for Defendant, Standard Fusee Corporation d/b/a Orion Safety Products

Rick Lee Oldenettel (TBA No. 15244500)
Oldenettel & McCabe
510 Bering Drive, Suite 675
Houston, Texas 77057
Phone: (713) 622-9220
Fax: (713) 622-5161

V. CONCLUSION

11. Because Plaintiff and Orion are citizens of different states and the amount in controversy exceeds \$75,000.000, exclusive of interest and costs, this Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1332. Defendants are, therefore, entitled to remove this case to this Court pursuant to 28 U.S.C. § 1441.

VI. PRAYER

12. WHEREFORE, PREMISES CONSIDERED, Defendant, STANDARD FUSEE CORPORATION d/b/a ORION SAFETY PRODUCTS prays that the action now pending in the 55th Judicial District Court of Harris County, Texas, Cause No. 2013-21089, be removed to this Court.

Respectfully submitted,

OLDENETTEL & McCABE

By: /s/ *Rick Lee Oldenettel*
Rick Lee Oldenettel
TBA# 15244500
510 Bering Drive, Suite 675
Houston, Texas 77057
(713) 622-9220
(713) 622-5161 (Fax)

**ATTORNEYS FOR DEFENDANT,
STANDARD FUSEE CORPORATION
d/b/a ORION SAFETY PRODUCTS**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above document was served on all counsel of record on this 10th day of June, 2013.

/s/ *Kevin M. Long*
Kevin M. Long